

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

VICTOR PLESCIA,

Petitioner,

v.

Case No. 13-12372  
Honorable Patrick J. Duggan

J. A. TERRIS,

Respondent.

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**ORDER OF SUMMARY DISMISSAL**

Petitioner Victor Plescia recently filed a *pro se* habeas corpus petition pursuant to 28 U.S.C. § 2241. Plescia is a federal inmate currently incarcerated at the Federal Correctional Institution in Milan, Michigan (FCI-Milan). He was convicted in the United States District Court for the Northern District of Illinois in 1991, and is serving a prison sentence of thirty-five years for an unspecified offense.

In his habeas petition, Plescia alleges that he suffers from osteoarthritis in his right shoulder and spine and that, in January of 2013, he slipped and fell at FCI-Milan while carrying a chair up some stairs. He injured his head and neck during the fall, and after an x-ray was taken of his neck, he was sent to a hospital in Ann Arbor, Michigan, where a physician examined him and prescribed pain

medication and a muscle relaxer.

Plescia was then sent back to FCI-Milan. He contends that there is something seriously wrong with his neck and that he is experiencing severe pain in his neck and head, as well as sleep disturbances, difficulty breathing, and a change in his voice. He claims that the medical staff at FCI-Milan will not provide him with the medication prescribed by the hospital physician and that he is being subjected to cruel and unusual punishment as a result of inadequate treatment for his serious medical needs. He seeks an order directing Respondent J.A. Terris to either respond to his claim of inadequate medical treatment or provide him with a physical examination by qualified medical personnel other than the medical staff at FCI-Milan.

Pursuant to Rule 4 of the Rules Governing § 2254 Cases, a district court may summarily dismiss a habeas petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”<sup>1</sup> *See also Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). Plescia’s petition is subject to summary dismissal because it challenges the conditions of confinement at FCI-Milan. Section “2241 is not the proper vehicle for a prisoner

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<sup>1</sup>The Court may apply the rules governing § 2254 to habeas petitions not filed under § 2254. *See* Rule 1(b) of the Rules Governing § 2254 Cases.

to challenge conditions of confinement.” *Luedtke v. Berkbile*, 704 F.3d 465, 466 (6th Cir. 2013). The proper remedy for a constitutional challenge to the conditions of prison life is a civil rights complaint. *Preiser v. Rodriguez*, 411 U.S. 475, 499, 93 S. Ct. 1827, 1841 (1973).

Accordingly,

**IT IS ORDERED** that Petitioner’s application for the writ of habeas corpus [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE**.

Dated: July 30, 2013

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

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